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**RE: SERIAL NO. 09/737,341
GROUP ART UNIT 2161**

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APPEAL BRIEF**

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1 PATENT

2 AUS9-2000-0611-US1

3
4 IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
5 BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES
6

7 In Re Application of:)
8 James C. Colson et al.)
9)
10 Serial No.: 09/737,341) Group Art Unit: 2161
11)
12 Filed: December 15, 2000)
13) Examiner: Cam Linh T. Nguyen
14 FOR: SYSTEM, METHOD, AND)
15 PROGRAM PRODUCT FOR)
16 PRIORITYZING SYNCHRONIZABLE) Facsimile No.: (571) 273-8300
17 DATA)
18

19 Mail Stop Appeal Brief- Patents
20 Commissioner for Patents
21 P.O. Box 1450
22 Alexandria, VA 22313-1450

23
24 **APPEAL BRIEF**

25 This is an appeal from the Final Office Action mailed May 26, 2005 (the "Final Office
26 Action"), rejecting claims 43 through 59 in the above-identified application. Appellants submit
27 this Appeal Brief to the Board of Patent Appeals and Interferences within the two month period
28 following the Notice of Appeal filed July 22, 2005.

29 This Brief of Appellants is accompanied by an authorization (Fee Transmittal form
30 PTO/SB/17) to charge Deposit Account No: 09-0447 for the fee of \$500.00 due under 37 C.F.R.
31 §41.20(b)(2), together with any additional fees which may be required for filing this Brief.

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1 **I. REAL PARTY IN INTEREST (37 C.F.R. §41.37(c)(1)(i))**

2 The above-described patent application is assigned to International Business Machines
3 Corporation ("IBM"), the real party in interest.

4

5 **II. RELATED APPEALS AND INTERFERENCES (37 C.F.R. §41.37(c)(1)(ii))**

6 There is no related Appeal or Interference before the United States Patent and Trademark
7 Office.

8

9 **III. STATUS OF CLAIMS (37 C.F.R. §41.37(c)(1)(iii))**

10 The status of the claims is as follows:

11 Allowed Claims: None
12 Claims to which Objections apply: None
13 Claims withdrawn from consideration: None
14 Claims Canceled: 1 through 42
15 Claims Rejected: 43 through 59
16 ClaimsAppealed: 43 through 59

17

18 **IV. STATUS OF AMENDMENTS (37 C.F.R. §41.37(c)(1)(iv))**

19 No claim amendments have been filed subsequent to the May 26, 2005, Final Office
20 Action.

1 **V. SUMMARY OF CLAIMED SUBJECT MATTER (37 C.F.R. §41.37(c)(1)(v))**

2

3 Independent Claim 43

4 The present invention provides a method for prioritizing data for use in synchronizing
5 data at a client device 42, 44, 45, or 46. One method according to the invention includes
6 receiving a synchronization session request 80, selecting a prioritization scheme 20 associated
7 with a user 72, 84, and retrieving scheme effecting data 85 based on the prioritization scheme 20.
8 (p. 20, line 19 - p. 21, line 4; p. 23, lines 2-5; p. 23, lines 8-14). In addition, this method includes
9 producing a prioritized data set 96 based on the prioritization scheme 20 and the scheme
10 effecting data. (p. 25, lines 6-10). The prioritized data set has a number of entries with each
11 respective entry ordered with respect to each other entry according to the prioritization scheme
12 20 and with data for each entry also ordered according to the prioritization scheme 20. (p. 28, line
13 10 - p. 29, line 2; p. 30, line 20 - p. 31, line 5).

14

15 Independent Claim 49

16 Additionally, the present invention includes a computer program product stored on one or
17 more computer readable media and executable by a processor for prioritizing data for use in
18 synchronizing data at a client device 42, 44, 45, or 46. One computer program product according
19 to the invention includes scheme reading program code 50 executable for selecting a
20 prioritization scheme 20 associated with a user, and data retrieval program code 51 executable
21 for retrieving scheme effecting data necessary in effecting the selected prioritization scheme 20.
22 (p. 14, line 12 - p. 15, line 5; p. 15, lines 7-10). This computer program product also includes

1 prioritization program code 52 executable for producing a prioritized data set based on the
2 selected prioritization scheme 20 and the scheme effecting data. (p. 15, lines 10-14). The
3 prioritized data set has a number of entries with each respective entry ordered with respect to
4 each other entry according to the prioritization scheme 20 and with data for each entry also
5 ordered according to the prioritization scheme 20. (p. 28, line 10 - p. 29, line 2; p. 30, line 20 - p.
6 31, line 5).

7

8 Independent Claim 55

9 The present invention also relates to a system 10 for prioritizing data for use in
10 synchronizing data at a client device 42, 44, 45, or 46. One system 10 according to the invention
11 includes a sync engine component 11 performing several functions described in claim 55 as
12 permitted under 35 U.S.C. §112, sixth paragraph. Sync engine component 11 receives a
13 synchronization session request, selects a prioritization scheme 20 associated with a user, and
14 retrieves scheme effecting data based on the prioritization scheme 20. (p. 20, line 18 - p. 21, line
15 2; p. 20, lines 9-12; p. 23, lines 8-14). Sync engine component 11 also produces a prioritized
16 data set based on the prioritization scheme 20 and the scheme effecting data. (p. 25, lines 6-10).
17 The prioritized data set has a number of entries with each respective entry ordered with respect to
18 each other entry according to the prioritization scheme 20 and with data for each entry also
19 ordered according to the prioritization scheme 20. (p. 28, line 10 - p. 29, line 2; p. 30, line 20 - p.
20 31, line 5). The system 10 also includes a data store storage arrangement 12 accessible to the
21 sync engine component 11 where the data store storage arrangement 12 stores the scheme
22 effecting data. (p. 10, lines 18-20; p. 23, lines 8-10).

**VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL (37 C.F.R.
§41.37(c)(1)(vi))**

1. Claims 43 through 48 stand rejected under 35 U.S.C. §101 on the ground that these claims are directed to non-statutory subject matter.
2. Claims 43 through 59 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the present invention.

3. Claims 43 through 44, 49 through 50, and 55 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,212,529 to Boothby et al. (“Boothby” or the “Boothby patent”).

4. Claims 45 through 48, 51 through 54, and 56 through 59 stand rejected under 35 U.S.C. §103(a) as being obvious over Boothby in view of U.S. Patent No. 6,295,541 to Bodnar et al. (“Bodnar” or the “Bodnar patent”).

VII. ARGUMENT (37 C.F.R. §41.37(c)(1)(vii))

A. CLAIMS 43 THROUGH 48 ARE DIRECTED TO STATUTORY SUBJECT MATTER

Claims 43 through 48 stand rejected under 35 U.S.C. §101 for being directed to non-statutory subject matter. The Appellants believe that claims 43 through 48 are directed to a

1 process that produces a useful, concrete, and tangible result, and thus are directed to statutory
2 subject matter under 35 U.S.C. §101.

3 The Final Office Action stated the Section 101 rejection of claims 43 through 48 as
4 follows:

5 In the present case, although claims 43 - 48 recite an abstract idea of a
6 method for synchronizing data using a dynamically selected data prioritization
7 scheme, however, the language of the claims raise a question as to whether the
8 claim is [sic] directed merely to an abstract idea that is not tied to a technological
9 art, environment or machine which would result in a practical application
10 producing a concrete, useful, and tangible result to form the basis of statutory
11 subject matter under 35 U.S.C. 101, which can be implemented by the mind of a
12 person or by the use of a pencil and paper. In other words, the method in the
13 invention is not a "computer-implemented method", and since the claimed
14 invention, as a whole, is not within the technological arts as explained above,
15 these claims only constitute an idea and does [sic] not apply, involve, use, or
16 advance the technological arts, thus, it [sic] is deemed [sic] to be directed to non-
17 statutory subject matter." Final Office Action, p. 3, lines 8-18.

18 Although it is by no means clear to Appellants, it appears that the Final Office Action rejects
19 claims 43 through 48 under 35 U.S.C. §101 as reciting a process representing merely an abstract
20 idea. The Final Office Action appears to rely on the concept stated in *Ex parte Bowman* (61
21 USPQ2d 1669, 1671 Unpublished) that a claimed invention that is not tied to some technological
22 art or environment represents merely an abstract idea, and thus does not represent statutory
23 subject matter.

24 The apparent Final Office Action reliance on *Bowman* is in error for two reasons. First,
25 *Bowman* is not a precedential decision of the Board of Patent Appeals and Interferences. Second,
26 the fact situation on which the decision in *Bowman* relies is entirely different from the fact
27 situation in this case. In *Bowman*, the Board found that the Appellant had carefully avoided tying
28 the disclosed and claimed invention to any technological art or environment. In contrast to the

1 fact situation in *Bowman*, the disclosure of the present application includes numerous specific
2 references to processing devices, program code, and physical devices through which the claimed
3 invention may be implemented. In particular, the present application describes a sync engine
4 component 11 for producing the desired prioritized data set. This sync engine component 11 is
5 described as a data processing device operating under the control of computer software code to
6 produce the desired prioritized data set (p. 11, lines 6-7; p.15, lines 6-14). The present
7 application also discloses that the prioritized data set according to the invention is useful in
8 synchronizing data at a client device such as a personal computer 42, a laptop computer 44, an
9 internet appliance 45, and a PDA 46 (p. 12, lines 14-20).

10 Claim 43 is directed to a method for prioritizing data for use in synchronizing data at a
11 client device, and includes the following steps:

12 (a) receiving a synchronization session request;
13 (b) selecting a prioritization scheme associated with a user;
14 (c) retrieving scheme effecting data based on the prioritization scheme; and
15 (d) producing a prioritized data set based on the prioritization scheme and the scheme
16 effecting data, the prioritized data set having a number of entries therein with each
17 respective entry ordered with respect to each other entry according to the
18 prioritization scheme and with data for each entry also ordered according to the
19 prioritization scheme.

20 This claim language very clearly specifies a process, one of the four statutory categories of
21 patentable inventions defined under 35 U.S.C. §101. Given that the claims specify a process, the
22 issue then is whether the claimed process is merely a law of nature, natural phenomenon, or
23 abstract idea, that is, one of the three categories of subject matter that has been found
24 unpatentable. *Diamond v. Diehr*, 209 USPQ 1, 7 (1981). A claimed invention is considered
25 statutory when it falls within one of the four statutory categories of patentable subject matter and

1 produces a useful and concrete or tangible result. See *State Street Bank & Trust Co. v. Signature*
2 *Financial Group Inc.*, 47 USPQ2d 1596 (Fed. Cir. 1998). In this case claims 43 through 48
3 require several method steps that ultimately result in the transformation of data to produce a
4 prioritized data set having certain characteristics. In particular, the prioritized data set has a
5 number of entries with each respective entry ordered with respect to each other entry according to
6 a retrieved prioritization scheme associated with a user. The data for each entry is also ordered
7 according to the prioritization scheme. This prioritized data set represents a useful, concrete, and
8 tangible result required for a claim to define statutory subject matter. As described in examples
9 cited in the present application beginning at page 25, line 19, this prioritized data set is useful in
10 synchronizing data between a device having a relatively high data storage capacity and a device
11 having a relatively lower data storage capacity client. There is nothing abstract about the result
12 obtained by the process set out in claim 43. The required prioritized data set is a tangible and
13 concrete result that has a clearly demonstrated utility as described in the specification of the
14 present application. As such, claim 43 does not merely recite an abstract idea, law of nature, or
15 natural phenomenon.

16 In view of the useful, concrete, and tangible result produced by the method set out in
17 claim 43, the Appellants submit that claim 43 and its dependent claims are clearly directed to
18 statutory subject matter and not merely to an abstract idea. Therefore, the Appellants believe that
19 the Final Office Action rejection of claims 43 through 48 is in error and should be reversed.

20 The Appellants note the statement in the above-quoted paragraph from the Final Office
21 Action that "the invention is not a 'computer-implemented method'." The Appellants submit
22 that it is not relevant whether the claim recites a computer-implemented method or otherwise.

1 What is relevant under 35 U.S.C. §101 is whether the claim recites subject matter within one of
2 the four statutory categories of invention, and whether the claimed subject matter produces some
3 useful and concrete or tangible result. See *State Street* 47 USPQ2d at 1601-02. There is simply
4 no requirement that a method must be implemented by a computer or some other type of
5 processing device in order to represent statutory patentable subject matter. It is not the fact that a
6 claimed process may be implemented by a computer that places the process in the realm of
7 patentable subject matter. Rather, a claimed process represents statutory subject matter if it
8 defines a process that produces a useful and concrete or tangible result.

9

10 B. CLAIMS 43 THROUGH 59 ARE NOT INDEFINITE UNDER 35 U.S.C. §112,
11 SECOND PARAGRAPH

12 The Final Office Action rejected claims 43 through 59, under 35 U.S.C. §112, second
13 paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject
14 matter of the invention. In particular, the Final Office Action states that there is insufficient
15 antecedent basis for the limitation “each respective entry ordered” in independent claims 43, 49,
16 and 55 because there is no “entry order” introduced previously in the claims. The Appellants
17 assert that this rejection is in error.

18 Independent claims 43, 49, and 55 each first introduce “a prioritized data set” and then
19 refer to “the prioritized data set” as “having a number of entries therein.” Each claim then goes
20 on to further require that “each respective entry” is “ordered with respect to each other entry.”
21 Thus the term “ordered” is used in the claims to describe a characteristic of “each respective
22 entry” and is not used to name an element in the claim. In this light, the reference to “each

1 respective entry ordered with respect to each other entry" clearly does not require a previous
2 reference to "an entry order." For these reasons the Appellants submit that the rejection of
3 claims 43 through 59 under 35 U.S.C. §112, second paragraph, is in error and should be reversed.
4

5 C. CLAIMS 43, 44, 49-50, AND 55 ARE NOT ANTICIPATED BY THE BOOTHBY
6 PATENT UNDER 35 U.S.C. §102(e)

7 The Final Office Action rejected claims 43 through 44, 49 through 50, and 55 under 35
8 U.S.C. §102(e) as being unpatentable over U.S. Patent No. 6,212,529 to Boothby et al.
9 ("Boothby" or the "Boothby patent"). The Applicants respectfully submit that these claims are
10 not anticipated by Boothby.

12

13 Independent Claim 43

14 Claim 43 is directed to a method for prioritizing data for use in synchronizing data at a
15 client device and requires the following elements:

16 (a) receiving a synchronization session request;
17 (b) selecting a prioritization scheme associated with a user;
18 (c) retrieving scheme effecting data based on the prioritization scheme; and
19 (d) producing a prioritized data set based on the prioritization scheme and the scheme
20 effecting data, the prioritized data set having a number of entries therein with
21 each respective entry ordered with respect to each other entry according to
22 the prioritization scheme and with data for each entry also ordered
23 according to the prioritization scheme. (Emphasis added)

24 The Boothby patent does not teach or suggest the prioritization of data as required by
25 element (d) of claim 43. In contrast, Boothby discloses applying a filter which results in some
26 records in a source data set being flagged as passing the filter and the remainder of the records
27 being flagged as not passing the filter. This flagging of certain records in a source data set does

1 not produce a prioritized data set, that is, a preferentially ranked or ordered data set, based on a
2 prioritization scheme and scheme effecting data as required by claim 43. Rather, the filtering
3 operation in Boothby simply produces a data set in which some of the records are flagged as
4 passing the filter and some records are not so flagged. Even assuming for the sake of argument
5 that the flagging of records according to Boothby produces a prioritized data set, there is no
6 suggestion in Boothby that the filter operation orders records as required by element (d) of claim
7 43. Furthermore, there is no suggestion in Boothby that the filter operation orders data within
8 each record as required by element (d) of claim 43.

9 The examples in the disclosure, beginning on page 25 at line 19, are illustrative of the
10 requirements of claim 43 and the differences between the requirements of claim 43 and what is
11 disclosed in Boothby. In particular, the first example describes a synchronization session
12 between a user's mobile telephone and the user's personal address book stored on a personal
13 computer where the address book may store up to 500 entries with up to four telephone numbers
14 for each entry. The mobile phone may have 99 entries with each entry having a maximum of two
15 phone numbers. (p. 25, line 20 - p. 26, line 6 and p. 26, lines 14-15). The specification discloses
16 selecting a sync session function from a cell phone's function menu, which causes a sync session
17 request to be transmitted to a sync engine component. (p. 27, lines 1-7). The sync engine
18 component then reads the user's selected prioritization scheme, such as the "most used" scheme,
19 and then retrieves the scheme effecting data. (p. 27, lines 13-17). The scheme effecting data
20 may include a frequency of use indicator, such as a counter, for each entry in the user's address
21 book and each telephone number in each address book entry. (p. 27, lines 17-20). The sync
22 engine component implements the "most used" prioritization scheme to order the entries with

1 respect to each other so that the entry used most often is placed first, the second most frequently
2 used entry is placed second, and so on. This ordering of records corresponds to the requirement
3 of claim 43 that the prioritized data set has "a number of entries therein with each respective
4 entry ordered with respect to each other entry according to the prioritization scheme." In
5 addition, the sync engine component orders the data for each entry according to the prioritization
6 scheme by putting the most used telephone numbers for that particular entry in order from the
7 most frequently used to the least frequently used. (p. 28, line 10 - p. 29, line 2). This ordering of
8 data within each entry corresponds to the requirement in claim 43 that the data for each entry is
9 "also ordered according to the prioritization scheme." The Appellants believe this example read
10 in connection with the requirements of claim 43 clearly distinguishes the prioritized data set
11 required by claim 43 from the flagged data set disclosed in Boothby.

12 Because the Boothby patent does not teach or suggest the prioritization required by
13 element (d) of claim 43, the Boothby patent cannot anticipate claim 43. The Applicants
14 respectfully submit that claim 43 is in condition for allowance together with all of its dependent
15 claims including claim 44.

16

17 Claims 49-50 and 55

18 Independent claim 49 is directed to a program product requiring limitations similar to
19 those in claim 43. In particular, claim 49 requires prioritization program code executable for
20 producing a prioritized data set based on a selected prioritization scheme and scheme effecting
21 data, "the prioritized data set having a number of entries therein with each respective entry
22 ordered with respect to each other entry according to the prioritization scheme and with

1 **data for each entry also ordered according to the prioritization scheme.” Therefore, the**
2 above arguments and comments regarding claim 43 apply with equal force to claim 49 and its
3 dependent claims. Because Boothby does not teach or suggest program code that orders entries
4 with respect to each other according to a prioritization scheme and that also orders the data
5 within each entry according to the prioritization scheme, claim 49 and claim 50 are not
6 anticipated by Boothby and are entitled to allowance.

7 Independent claim 55 is directed to a system for providing a prioritized data set and also
8 includes limitations as to prioritization similar to those set out in claim 43. In particular, claim
9 55 requires a sync engine component that, among other things, produces a prioritized data set
10 based on a selected prioritization scheme and scheme effecting data, where the prioritized data
11 set has “**a number of entries therein with each respective entry ordered with respect to each**
12 **other entry according to the prioritization scheme and with data for each entry also**
13 **ordered according to the prioritization scheme.” Therefore, the above arguments and**
14 **comments regarding claim 43 also apply with equal force to claim 55. Because Boothby does not**
15 **teach or suggest any element for ordering entries in a prioritized data set with respect to each**
16 **other according to the prioritization scheme and also ordering the data within each entry**
17 **according to the prioritization scheme as specifically required in claim 55, claim 55 is not**
18 **anticipated by Boothby and is entitled to allowance.**

19 For all of the above reasons, the Appellants submit that the anticipation rejection of
20 claims 43 through 44, 49 through 50, and 55 in view of Boothby is in error and should be
21 reversed.

22

1 D. CLAIMS 45-48, 51-54, AND 56-59 ARE NOT OBVIOUS UNDER 35 U.S.C. §103(a)
2 OVER BOOTHBY IN VIEW OF BODNAR

3
4 The Final Office Action rejected claims 45 through 48, 51 through 54, and 56 through 59
5 over Boothby in view of U.S. Patent No. 6,295,541 to Bodnar et al. ("Bodnar" or the "Bodnar
6 patent"). The Appellants submit that these claims are not obvious over Boothby in view of
7 Bodnar because the proposed combination of references does not teach or suggest each element
8 required in the respective claims.

9 The claim rejections based upon the Boothby and Bodnar patents rely on Boothby as the
10 primary reference to show each of the elements required in the respective independent claim
11 from which the respective rejected claim depends. Bodnar is apparently cited for showing the
12 additional elements required in claims 45 through 48, 51 through 54, and 56 through 59, that is,
13 the additional elements over and above the elements required in the respective independent
14 claims, claims 43, 49, and 55. As discussed above, however, the Boothby patent does not in fact
15 teach or suggest all of the limitations required in independent claims 43, 49 and 55. Because
16 Bodnar does not make up for the deficiencies of Boothby with respect to the independent claims
17 as described above, the combination of Boothby and Bodnar cannot teach or suggest the
18 dependent claims rejected under 35 U.S.C. §103.

19 Bodnar discloses synchronizing data between a number of different databases. In
20 particular, from col. 40, line 13 through col. 41, line 31, Bodnar teaches that the records in each
21 client database are linked to a particular record in the synchronizing engine's database in
22 accordance with a mapping table. As described in Bodnar, beginning at col. 42, line 31, each
23 time a synchronization takes place between databases, this mapping table may be used to identify

1 the files that need to be updated, added, or deleted. The synchronizing engine then determines
2 any changes that have been made to the records to be synchronized, determines a set of actions to
3 take for each record, and then synchronizes the records. Bodnar does not teach or suggest
4 producing a prioritized data set with a number of entries where each entry is ordered with respect
5 to the other entries according to a prioritization scheme and that the data for each entry is also
6 ordered according to the prioritization scheme as required by independent claims 43, 49, and 55.
7 Because the references considered alone or in combination do not teach or suggest the prioritized
8 data set as required by independent claims 43, 49, and 55, the proposed combination of Boothby
9 and Bodnar cannot teach or suggest all of the elements required in the dependent claims,
10 including claims 45 through 48, 51 through 54, and 56 through 59. Therefore, the Appellants
11 believe that claims 45 through 48, 51 through 54, and 56 through 59 are not obvious in view of
12 the proposed combination of Boothby and Bodnar and are entitled to allowance.

13 For all of these reasons the Appellants submit that the rejection of claims 45 through 48,
14 51 through 54, and 56 through 59 is in error and should be reversed.

VIII. CONCLUSION

For all of these reasons, the Appellants submit that claims 43 through 59 are entitled to allowance and respectfully request that the Board reverse the decision of the Examiner rejecting these claims.

Respectfully submitted,

The Culbertson Group, P.C.

Date: 9-22-05

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Trevor Lind, Reg. No. 54,785

1 **IX. CLAIMS APPENDIX (37 C.F.R. §41.37(c)(1)(viii))**

2 43. A method for prioritizing data for use in synchronizing data at a client device, the method

3 including:

4 (a) receiving a synchronization session request;

5 (b) selecting a prioritization scheme associated with a user;

6 (c) retrieving scheme effecting data based on the prioritization scheme; and

7 (d) producing a prioritized data set based on the prioritization scheme and the scheme
8 effecting data, the prioritized data set having a number of entries therein with each
9 respective entry ordered with respect to each other entry according to the
10 prioritization scheme and with data for each entry also ordered according to the
11 prioritization scheme.

12

13 44. The method of claim 43 further including completing the synchronization session request

14 by applying the prioritized data set to data on the client device.

15

16 45. The method of claim 43 further including:

17 (a) receiving a user input, the prioritization scheme being selected based on the user
18 input;

19 (b) determining synchronization session parameters based on at least a client device
20 identifier;

21 (c) identifying a prioritization formula based on the prioritization scheme and the
22 synchronization session parameters; and

1 (d) wherein producing the prioritized data set includes applying the prioritization
2 formula to the scheme effecting data.

3

4 46. The method of claim 43 further including determining synchronization session
5 parameters for the synchronization session request and wherein the prioritized data set is
6 also produced based on the synchronization session parameters.

7

8 47. The method of claim 46 further including reading at least one of the synchronization
9 session parameters from storage.

10

11 48. The method of claim 46 wherein the step of determining synchronization session
12 parameters for the synchronization session request includes identifying at least one of the
13 synchronization session parameters from the synchronization session request.

14

15 49. A computer program product stored on one or more computer readable media and
16 executable by a processor for prioritizing data for use in synchronizing data at a client
17 device, the computer program product including:

18 (a) scheme reading program code executable for selecting a prioritization scheme
19 associated with a user;

20 (b) data retrieval program code executable for retrieving scheme effecting data
21 necessary in effecting the selected prioritization scheme; and

1 (c) prioritization program code executable for producing a prioritized data set based
2 on the selected prioritization scheme and the scheme effecting data, the prioritized
3 data set having a number of entries therein with each respective entry ordered with
4 respect to each other entry according to the prioritization scheme and with data for
5 each entry also ordered according to the prioritization scheme.

6
7 50. The program product of claim 49 further including synchronization program code
8 executable for completing a synchronization session request by applying the prioritized
9 data set to data on the client device.

10
11 51. The program product of claim 49 further including program code for:
12 (a) determining synchronization session parameters in response to a synchronization
13 session request;
14 (b) identifying a prioritization formula based on the prioritization scheme and the
15 synchronization session parameters; and
16 (c) wherein producing the prioritized data set includes applying the prioritization
17 formula to the scheme effecting data.

18
19 52. The program product of claim 51 wherein the synchronization session parameters are
20 determined by recognizing request characteristics from the synchronization session
21 request.

- 1 53. The program product of claim 51 wherein at least one of the synchronization session
- 2 parameters is read from storage.
- 3
- 4 54. The program product of claim 51 wherein at least one of the synchronization session
- 5 parameters is determined from the synchronization session request.
- 6
- 7 55. A system for prioritizing data for use in synchronizing data at a client device, the system
- 8 including:
 - 9 (a) a sync engine component for (i) receiving a synchronization session request and
 - 10 selecting a prioritization scheme associated with a user, (ii) retrieving scheme
 - 11 effecting data based on the prioritization scheme, and (iii) producing a prioritized
 - 12 data set based on the prioritization scheme and the scheme effecting data, the
 - 13 prioritized data set having a number of entries therein with each respective entry
 - 14 ordered with respect to each other entry according to the prioritization scheme and
 - 15 with data for each entry also ordered according to the prioritization scheme; and
 - 16 (b) a data store storage arrangement accessible to the sync engine component, the data
 - 17 store storage arrangement for storing the scheme effecting data.
- 18
- 19 56. The system of claim 55 wherein the sync engine component is also for identifying a
- 20 prioritization formula based on the prioritization scheme and based on synchronization
- 21 session parameters, and wherein producing the prioritized data set includes applying the
- 22 prioritization formula to the scheme effecting data.

- 1 57. The system of claim 56 wherein the sync engine component is also for determining the
- 2 synchronization session parameters by recognizing request characteristics from the
- 3 synchronization session request.
- 4
- 5 58. The system of claim 56 wherein the sync engine component is also for reading at least
- 6 one of the synchronization session parameters from a storage device.
- 7
- 8 59. The system of claim 56 wherein the sync engine component is also for determining at
- 9 least one of the synchronization session parameters from the synchronization session
- 10 request.

1 **X. EVIDENCE APPENDIX (37 C.F.R. §41.37(c)(1)(ix))**

2 The Appellant has not relied upon any evidence in this appeal according to 37 C.F.R.
3 §41.37(c)(1)(ix) in order to overcome the currently outstanding grounds of rejection in the case.

1 **XI. RELATED PROCEEDINGS APPENDIX (37 C.F.R. §41.37(c)(1)(x))**

2 There is no related Appeal or Interference before the United States Patent and Trademark
3 Office.